UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/813,895	03/31/2004	David Benjamin Auerbach	24207-10115	5766

62296   7590   09/26/2007
GOOGLE / FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA ST.
MOUNTAIN VIEW, CA 94041

EXAMINER
ROBINSON, GRETA LEE

ART UNIT	PAPER NUMBER
2168	

MAIL DATE	DELIVERY MODE
09/26/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>19 July 2007</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1-36</u> is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☒ Claim(s) <u>36</u> is/are allowed.

6)☒ Claim(s) <u>1-35</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some *   c)☐ None of:

     1.☐ Certified copies of the priority documents have been received.

     2.☐ Certified copies of the priority documents have been received in Application No. _____.

     3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
   Paper No(s)/Mail Date <u>08/30/07</u>.

4) ☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

1.   Claims 1-36 are pending in the present application.

Claim Rejections - 35 USC § 102

2.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that

form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3.   Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by

Pingali et al. *Instantly Indexed Multimedia Databases of Real World Events*.

Regarding claim 1, Pingali et al. teaches a method comprising:

capturing one or more events having associated event data and associated with

a client device, wherein each event is associated with an article and at least one of the

articles is a media file, wherein at least one of the events is captured in real time upon

the occurrence of the event [note: abstract "We introduce a new paradigm for real-time

conversion of a real world event into a rich multimedia database by processing data from

multiple sensors **observing events**. Real-time analysis ... instant indexing of multimedia data at

capture time"; page 269 introduction "**real-time or online indexing**, as well as **capture**

of data and indices that support a **user's domain-specific queries**"];

responsive to capturing the one or more events, indexing and storing at least some of the event data and articles associated with the events [note: page 275 note data selection section VI and page 279 activity map based indexing];

receiving a search query [note: page 269 "real-time or online indexing, as well as capture of data and indices that support a user's domain-specific queries"; Figure 2]; and

determining the at least one media file as relevant to the search query [note: Figure 2; page 270]; and

outputting a result set referencing the at least one media file [note: page 269; Figure 9].

4.   The limitations of claim 8 parallel claim 1; therefor it is rejected under the same rationale.

5.   Claim 35 are rejected under 35 U.S.C. 102(b) as being anticipated by Barr et al. US Patent 5,742,816.

Regarding claim 35 Barr et al. teaches a method, comprising: "monitoring a plurality of applications to determine event data associated with a plurality of events comprising media file events and non-media file events, wherein each event is associated with an article" [note: session/query server architecture column 20 line 36-41 "session server software 114a includes a plurality of session managers 130, each of which is responsible for monitoring and directing a single active user session 300"; also note

column 21 lines 14-22 "The search engines 142 are each coupled to document index

database 117, and schedulers 144 monitor and queue the searches performed by search

engines"];

"compiling at least some of the event data to capture at least some of the media

file events" [note: Figure 6 (134) query engine interface; Figure 6B step 142a receive

query fields from search engine API 140; col. 13 lines 18-24, also note lines 39-42];

"responsive to capturing indexing and storing" [Figure 3 (117) document index

database; Figure 6 (117); col. 12 lines 54-65 document index database 117 stores the

document identification numbers corresponding to each document file (stored in database 118)];

"locating relevant articles from the indexed and stored event" [note: Figure 6

(134) query engine interface; Figure 6B step 142a receive query fields from search engine

API 140; col. 13 lines 18-24, also note lines 39-42; col. 13 lines 28-29 system finds article

or other text which the publisher 112 may have published];

"outputting a result set" [note: Figure 3 note PC 104 and software 106; column 14

lines 29-31 "user PC 104 together with *software 106 display* the search results list (or

portion thereof)"].

Claim Rejections - 35 USC § 103

6.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

7.   Claims 1-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barr et al. US Patent 5,742,816 in view of Chen US Patent 6,728,763 B1.

Regarding claim 1, **Barr et al.** teaches a method comprising: capturing one or more events having associated event data and associated with a client device, wherein each event is associated with an article and at least one of the articles is a media file, wherein at least one of the events is captured in real time upon the occurrence of the event [note: abstract a method and apparatus for identifying textual documents and multi-media files corresponding to a search topic; Figure 3; col. 12 lines 16-18 software 106 on PC 104 waits for the user to input a search query; col. 12 lines 46-53 upon receipt of the query by session server 114, processing proceeds to step 335, during which the search query is transmitted];

responsive to capturing the one or more events, indexing and storing at least some of the event data and articles associated with the events [note: Figure 3 (117)

document index database; Figure 6 (117); col. 12 lines 54-65 document index database

117 stores the document identification numbers corresponding to each document file (stored in

database 118)];

　·receiving a search query [note: Figure 6 (134) query engine interface; Figure 6B

step 142a receive query fields from search engine API 140; col. 13 lines 18-24, also note

lines 39-42]; and

determining the at least one media file as relevant to the search query [note: col.

13 lines 18-24; Figure 6 note step (142L) transmit document identification and

corresponding relevance scores to search engine API]; and

outputting a result set referencing the at least one media file [note: Figure 3 note

PC 104 and software 106; column 14 lines 29-31 "user PC 104 together with software

106 display the search results list (or portion thereof)"].

Although Barr et al. teaches the invention substantially as cited above, they do

not explicitly state that the data is captured in real-time. **Chen** teaches that conventional

systems allow browsers to capture events such as media content from the web in real-

time [note: column 1 lines 36-55]. It would have been obvious to one of ordinary skill at

the time of the invention to have combined Chen with Barr et al. since Barr teaches that

his system is compatible with large volume networks such as the Internet for receiving

and sending a search query [col. 8 lines 50-67].

8.　　　Regarding claims 4 and 21, "wherein capturing the event data associated with

the media files comprises monitoring a media application to determine event data

associated with the event and compiling the event from at least some of the event data "

[note: Barr et al. Figure 2 steps 208-210; Figure 6B steps 142J through 142L (i.e.

performing search and outputting results is equivalent to capturing and compiling the

event)].

9.   Regarding claims 5, 6, 22, and 23 "wherein capturing the event associated with

the media files comprises determining event data external to the media file ...

determined based at least in part on one or more of a local database, global database,

a web page, and a network search engine [note: Barr et al. col. 11 lines 29-45].

10.   Regarding claims 7-11 and 24-28, "wherein the media file comprises an audio file

... video file ... image file ..." [Barr et al. abstract; column 13 lines 1-4].

11.   Regarding claims 12-17 and 29-34, "wherein capturing the event associated with

the media file comprises determining text that identifies the media file and including the

text as event data associated with the event ... indexing the event ... identifying the

event ... [note: Barr et al. col. 20 line 61 through col. 21 line 25].

12.   The limitations of claim 18 parallels claim 1; therefore it is rejected under the

same rationale.

13.   Regarding claims 2, 3, 19 and 20, "wherein the search query is an explicit query"

and "wherein the search query is an implicit query" note, Barr et al. does not explicitly

state the type of query being executed; however, Barr et al's system would provide for

both explicit and implicit queries because of its ability to dynamically execute a query in

real-time. As taught by Chen conventional browsers have the ability to capture events

and execute queries in real-time, implicit queries are generated based on ongoing

events (i.e. real-time) in the background. It would have been obvious to one of ordinary

skill at the time of the invention to have assumed that the search query of Barr et al.

would provide for both types of search queries since Chen et al. teaches real-time

execution of a query implies an implicit query and it is well known that most queries are

explicit.

Response to Arguments

14.   Applicant's request for reconsideration of the finality of the rejection of the last

Office action is persuasive and, therefore, the finality of that action is withdrawn.

Applicant's arguments filed June 20, 2007 concerning the rejection applied to

claim 36 cited under 35 USC 102(b) citing Barr et al. is found *persuasive*. Barr et al.

does not teach performance data as claimed. The examiner notes, the limitation of

performance data is not cited in claim 35; therefore the rejection as applied to this claim

is respectfully maintained.

Rejection cited under 35 USC 101: Applicant argues the limitation "determining

the at least one media file as relevant to the search query ..." and "...outputting a result

set referencing the at least one media file ...." Is an example of a tangible result.

Applicant's arguments are found persuasive; therefor the rejection has been withdrawn.

In response to the rejection cited under 35 USC 103(a) citing Barr et al. in view of

Chen, Applicant states neither Barr et al. nor Chen teach how the document index

database is created. Applicant states the references do not provide for capturing one or

more events or indexing and storing responsive to receiving a search query.

In response to applicant's argument that the references fail to show certain

features of applicant's invention, it is noted that the features upon which applicant relies

(i.e., a document index database is created) are not recited in the rejected claim(s).

Although the claims are interpreted in light of the specification, limitations from the

specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26

USPQ2d 1057 (Fed. Cir. 1993). However, Barr et al. does teach a document index

database to identify documents see Figure 3 element (117); column 9 lines 8-15. also

lines 40-43. The documents are retrieved in response to a search query.

The specification defines the limitation "capturing an event" as playing an audio

file, editing a video, uploading an image, viewing a web page or saving a word

processing document see page 8 paragraph 0018. Barr et al. provides for at least one

of these type of events see Figure 4A; also note abstract a method and apparatus for

identifying textual documents and multi-media files corresponding to a search topic; Figure 3;

col. 12 lines 16-18 software 106 on PC 104 waits for the user to input a search query; col. 12

lines 46-53 upon receipt of the query by session server 114, processing proceeds to step 335,

during which the search query is transmitted.

.*Conclusion*

15.   The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

    Nicholls et al. US Patent Application Publication No. 2006/0167704 A1

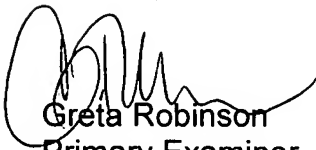   Griner et al. US Patent Application Publication No. 2004/0095852 A1

    Huang et al. *Multimedia Search and Retrieval: New Concepts, System*

Implementation, and Application

16.   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Greta L. Robinson whose telephone number is

(571)272-4118. The examiner can normally be reached on M-F 9:30AM-6:00PM.

    If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tim T. Vo can be reached on (571)272-3642. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a

USPTO Customer Service Representative or access to the automated information

system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Greta Robinson
Primary Examiner
September 19, 2007